

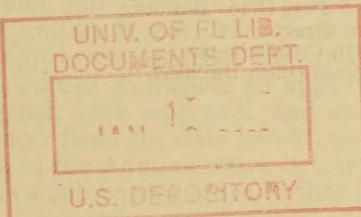
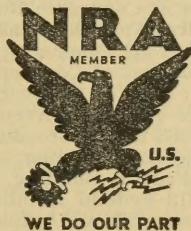
NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO  
CODE OF FAIR COMPETITION

FOR THE

METAL TANK INDUSTRY

AS APPROVED ON AUGUST 2, 1934



UNITED STATES  
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Approved Code No. 154—Amendment No. 1

AMENDMENT TO CODE OF FAIR COMPETITION  
FOR THE  
METAL TANK INDUSTRY

As Approved on August 2, 1934

ORDER

APPROVING AMENDMENTS TO THE CODE OF FAIR COMPETITION FOR THE  
METAL TANK INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of amendments to the Code of Fair Competition for the Metal Tank Industry, and hearings having been duly held thereon and the annexed report on said amendments, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order 6543-A, dated December 30, 1933, and otherwise, do hereby incorporate by reference, said annexed report and do find that said amendments and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and do hereby order that said amendments be and they are hereby approved, and that the previous approval of said Code is hereby modified to include an approval of said Code in its entirety as amended, such approval and such amendments to take effect fifteen days from the date hereof, unless good cause to the contrary is shown to the Administrator before that time and the Administrator issues a subsequent order to that effect.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

BARTON W. MURRAY,

*Division Administrator.*

WASHINGTON, D.C.,

*August 2, 1934.*

## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: This is a report on the Amendments to the Code of Fair Competition for the Metal Tank Industry, as revised after a Public Hearing conducted in Washington on May 29, 1934, in accordance with Article IX, Section (g) of said Code as approved on December 15, 1933. Due opportunity to be heard was afforded all interested parties.

The Amendments provide for mandatory assessments against members of the Industry for the expense of Code Administration; revisions of and additions to the trade practice provisions to meet the needs of the Industry.

### FINDINGS

The Deputy Administrator in his final report to me on said Amendments to said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) The Amendments to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of Industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid Amendments on behalf of the Industry as a whole.

(d) The Amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The Amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Amendments.

For these reasons, these Amendments have been approved by me.  
Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

AUGUST 2, 1934.

## AMENDMENT TO CODE OF FAIR COMPETITION FOR THE METAL TANK INDUSTRY

### PURPOSE

Pursuant to Article IX, Section (g) of the Code of Fair Competition for the Metal Tank Industry, duly approved by the President on December 15, 1933, and further to effectuate the policies of Title I of the National Industrial Recovery Act, the following amendments are established as a part of said Code of Fair Competition and shall be binding upon every member of the Metal Tank Industry.

### ARTICLE VI—ADMINISTRATION

The second sentence of Subsection (c) of Section 1 is hereby amended by deleting the words "creating and" to read as follows:

Any member of the Industry may participate in the preparation and any revision of and additions or supplements to this Code by assuming his share of the responsibility of administering it and paying his proper prorata share of the cost of administering it, either by becoming a member of the Association or by paying his proper share of the costs to the Code Authority.

There is hereby added at the end of Section 2 a new sub-section lettered (i) to read as follows:

(i) Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to any one for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder be liable to any one for any action or omission to act under the Code, except for his own wilful malfeasance or nonfeasance.

There are hereby added at the end of Section 2 new sections numbered Section 3, Section 4, and Section 5 to read as follows:

SECTION 3. It being found necessary in order to support the administration of this Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes, and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and obtain equitable contribution as above set forth by all members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

**SECTION 4.** Each member of the Industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Administrator. Only members of the Industry complying with the Code and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such contribution, shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

**SECTION 5.** The Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget; and shall in no event exceed the total amount contained in the approved budget except upon approval of the Administrator; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

#### ARTICLE VII—TRADE PRACTICES

Section 1, sub-section (d) is hereby deleted, and there is added a new sub-section lettered (d) to read as follows:

(d) Secretly offering or making any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, or secretly offering or extending to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

Section 1, sub-section (s) is hereby amended to read as follows:

(s) Changing quotations, except (1) to make them conform to revisions in price lists; (2) to adjust such quotations to changes in specifications; (3) to correct bona fide errors.

There is hereby added at the end of Section 1, sub-section (v) a new sub-section lettered (w) to read as follows:

(w) Giving, permitting to be given, or offering to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

Section 2 is hereby amended to read as follows:

**SECTION 2.** Any deviation from the provisions of this Code, or any amendments thereto, by any member of the Industry, either directly



or indirectly, shall be considered an unfair method of competition and a violation of this Code by such member.

## ARTICLE XI

There is hereby added at the end of Article X a new article numbered Article XI to read as follows:

### ARTICLE XI—EFFECTIVE DATE OF AMENDMENTS

The foregoing amendments shall become effective on the date of approval by the Administrator.

Approved Code No. 154—Amendment No. 1.  
Registry No. 1136-01.